



## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2022-0041; Notice 1]

#### General Motors, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Receipt of petition.

**SUMMARY:** General Motors, LLC (GM), has determined that certain model year (MY) 2018-2020 Chevrolet Suburban and Tahoe motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment*. GM filed an original noncompliance report dated March 31, 2022. GM subsequently petitioned NHTSA on April 22, 2022, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces receipt of GM's petition.

**DATES:** Send comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and may be submitted by any of the following methods:

- Mail: Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590.
- Hand Delivery: Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room

W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except for Federal Holidays.

- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to [https://www.regulations.gov](https://www.regulations.gov/), including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at [https://www.regulations.gov](https://www.regulations.gov/) by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000 (65 FR 19477-78).

**FOR FURTHER INFORMATION CONTACT:** Leroy Angeles, General Engineer, NHTSA, Office of Vehicle Safety Compliance, (202) 366-5304.

**SUPPLEMENTARY INFORMATION:**

**I. Overview:** GM determined that certain MY 2018-2020 Chevrolet Suburban and Tahoe motor vehicles do not fully comply with paragraph S6.5.2 of FMVSS No. 108, *Lamps, Reflective Devices, and Associated Equipment*. (49 CFR 571.108).

GM filed an original noncompliance report dated March 31, 2022, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. GM petitioned NHTSA on April 22, 2022, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of GM's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or another exercise of judgment concerning the merits of the petition.

**II. Vehicles Involved:** Approximately 329,344 MY 2018-2020 Chevrolet Suburban and Tahoe motor vehicles manufactured between May 22, 2017, and April 8, 2020, are potentially involved:

**III. Noncompliance:** GM explains that the headlamp lens equipped in the subject vehicles does not fully comply with the marking requirements as stated in paragraph S6.5.2 of FMVSS No. 108. Specifically, the headlamp lens' in the subject vehicles are not marked "DRL" to indicate that there is a daytime running lamp (DRL) function in the headlamp assembly that is not optically combined with a headlamp function.

**IV. Rule Requirements:** Paragraph S6.5.2 of FMVSS No. 108 includes the requirements relevant to this petition. FMVSS No 108, 6.5.2 requires each original equipment and replacement lamp used as a DRL, unless optically combined with a headlamp, to be permanently marked "DRL" on its lens in letters not less than 3 mm high.

**V. Summary of GM's Petition:** The following views and arguments presented in this section, "V. Summary of GM's Petition," are the views and arguments provided by GM. They have not been evaluated by the Agency and do not reflect the views of the Agency. GM describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

GM explains that the missing DRL marking on the headlamp lens is the result of a supplier error that occurred in the course of the change of the design of the DRL. GM says that the DRLs meet all of the performance requirements given in FMVSS No. 108 and other than the missing DRL marking, the subject headlamp assemblies comply with all marking requirements as stated in FMVSS No. 108.

GM details the history and purpose of the DRL marking to support its belief that the subject noncompliance does not affect vehicle safety. GM says that before the DRL marking requirement was added to FMVSS No. 108, the laws on vehicle lighting varied between states and that while no state laws directly prohibited the use of DRLs some of those laws did have the incidental effect of prohibiting the use of DRLs. In 1993, NHTSA published the final rule updating FMVSS No. 108<sup>1</sup> to allow DRLs to be installed as optional lighting equipment. GM says that NHTSA added the "DRL" marking provision as an accommodation to states because NHTSA recognized that any update to DRL performance requirements would preempt the laws of those states which had effectively precluded the use of DRLs. GM states that the DRL marking requirement allowed the local authorities to distinguish between illegal vehicle lamps and lighting combinations and legal lamps that had been certified as meeting the DRL performance requirements. Therefore, GM believes that the DRL marking requirement was never intended to have any effect on the operation or function of the DRLs; and, accordingly, the absence of the marking does not have an impact on motor vehicle safety.

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<sup>1</sup> See Federal Motor Vehicle Safety Standards Lamps, Reflective Devices, and Associated Equipment, 58 FR 3500 (January 11, 1993).

GM acknowledges that local authorities needed to distinguish between permitted and illegal vehicle headlighting was a relevant concern in the early 1990s but GM believes the DRL marking requirement no longer holds the same significance because of the increased prevalence of DRLs being installed in vehicles as standard equipment.

GM says that it has not received any complaints, reports, or claims as a result of the subject noncompliance. GM also states that it has not found any reports from consumers complaining that their vehicles did not pass a state inspection or that drivers have been cited by local law enforcement because the ‘DRL’ marking was not present.

Furthermore, GM says that the MY 2018-2020 Chevrolet Tahoe and Suburban motor vehicles without the DRL marking are also offered for sale in Canada, where the DRL marking is not a requirement. GM says that because the DRL marking is not required by the Canadian Motor Vehicle Safety Standards, this supports their belief that “the marking requirement is an artifact of the piecemeal approach to vehicle lighting regulation in the United States that existed decades ago and has no bearing on motor vehicle safety or the performance of the headlamp system.”

GM believes that NHTSA’s analysis of certain petitions for inconsequential noncompliance support granting the subject petition. According to GM, for inconsequentiality petitions submitted by OSRAM SYLVANIA Products, Inc.<sup>2</sup>, and General Motors, LLC<sup>3</sup>, NHTSA has previously granted these where, like in this petition, the only compliance related issue is that the light source does not meet the associated marking requirement. Specifically, GM noted that the key point in the analysis of both those petitions was that NHTSA determined that inadvertently installing a lamp by following the marking on the light source would not create an enhanced safety risk because the two light sources were interchangeable. Furthermore, GM

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<sup>2</sup> OSRAM SYLVANIA Products, Inc., Grant of Petition for Decision of Inconsequential Noncompliance, 78 FR 22943 (April 17, 2003)

<sup>3</sup> General Motors, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 82 FR 5644 (January 18, 2017);

claims that since the DRL is a non-replaceable lamp within the headlamp assembly, the whole headlamp assembly will need to be replaced. Thus, the “DRL” marking does not and was never intended to communicate any information related to its replacement and does not provide any information to the consumer on the compatible types of replacement light sources. GM cites a petition submitted by Volkswagen Group of America, Inc.<sup>4</sup>, to be similar to the subject petition where GM says NHTSA found that because consumers and other entities would identify replacement lamps through other means and would in no way rely upon the missing voltage marking, the noncompliance posed little if any risk to motor vehicle safety.

In a denial of a petition submitted by Great Dane, LLC<sup>5</sup>, GM says NHTSA reasoned that the absence of a certification label reduces the safety effectiveness of certain items of motor vehicle equipment, the same considerations do not apply to the subject noncompliance. GM claims that in contrast to the Grant Dane petition, the “DRL” marking serves a fundamentally different purpose in that consumers do not inspect the headlamp lens for the presence of the mark and the mark does not communicate any details about the performance. GM goes on to refer to a petition NHTSA granted that was submitted by Porsche Cars North America, Inc.<sup>6</sup>, where tires did not include the “DOT” certification mark. In this case, GM states NHTSA determined that the noncompliance was inconsequential because the affected tires complied with the relevant FMVSSs and contained a vehicle certification label.

GM concludes by stating its belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety and its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

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<sup>4</sup> Volkswagen Group of America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance, 82 FR 26733 (June 8, 2017)

<sup>5</sup> Great Dane, LLC, Denial of Petition for Decision of Inconsequential Noncompliance, 87 FR 23018 (April 18, 2022)

<sup>6</sup> Porsche Cars North America, Inc.; Grant of Petition for Decision of Inconsequential Noncompliance, 86 FR 184 (January 4, 2021)

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that GM no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after GM notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

**Otto G. Matheke III,**

*Director, Office of Vehicle Safety Compliance.*

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